

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 8, 2011

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF :09OD-054

Oahu

Rescind Prior Board Action dated December 11, 2009, Item D-14, Sale of Remnant to Guillermo Geldermann; Kaaawa, Koolauloa, Oahu; Tax Map Key: (1) 5-1-011:055 portion.

BACKGROUND:

On December 11, 2009, under agenda item D-14, the Board authorized the sale of the remnant to Mr. Guillermo Geldermann. A copy of the approved submittal is attached as Exhibit 1. Under the December 2009 action, the area of the subject remnant was described as consisting of "3,661 square feet, more or less".

In January of 2010, staff received a survey map of the subject remnant from the Department of Accounting and General Services, Survey Division, describing the area of the subject remnant as consisting of 2,692 square feet. A copy of the survey map is attached as Exhibit 2.

An appraisal report was completed based upon 2,692 square feet. The applicant subsequently contacted staff and had explained that his earlier decision to make the payment for the appraisal report was based upon his prior understanding that the area had instead consisted of 3,661 square feet, as noted in the 2009 approved submittal.

By way of a letter dated December 23, 2010, (copy attached as Exhibit 3) the applicant was advised that a portion of the subject remnant was currently being utilized as a right-of-way abutting Lihimauna Road, owned by the Kaaawa Beach Owners Association. The applicant was also made aware that the State had no intentions of ever conveying the portion of the remnant covering the privately owned Lihimauna Road to him.

By way of a letter dated February 23, 2011 (copy attached as Exhibit 4), the applicant disputed the discrepancy in the size of the remnant offered to him for sale and for the amount that he had been previously required to pay for the appraisal report. Further, the applicant had also requested a refund of his appraisal fee payment.

Staff was not aware of the discrepancy in the size of the remnant area until the survey map was completed and became available. In view of staff's oversight, there is no objection to the refund amount of \$1,700.00 to the applicant for his prior payment of the appraisal report fee. Further, staff is asking the Board to rescind its December 11, 2009 approval of the sale of the remnant area to Mr. Geldermann.

RECOMMENDATION: That the Board:

- A. Rescind the prior action dated on December 11, 2009, Item D-14;
- B. Refund the applicant's previous payment of \$1,700.00 for the appraisal report fee.

Respectfully Submitted,

  
\_\_\_\_\_  
Timmy Chee  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila Jr., Chairperson

✓

0-14

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 11, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 09OD-054

OAHU

Sale of Remnant to Guillermo Geldermann, Kaaawa, Koolauloa, Oahu; Tax Map Key: (1) 5-1-011:055;  
Rescind Prior Board Action of July 22, 2009, Item D-13

APPLICANT:

Guillermo Geldermann, whose mailing address is

Kaaawa, Hawaii 96730

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaaawa, Koolauloa, Oahu identified by  
Tax Map Key: (1) 5-1-011:055; as shown on the attached map labeled "Exhibit A".

AREA:

3,661 square feet, more or less.

ZONING:

State Land Use District: Urban District  
City and County of Honolulu LUO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

DA

December 11, 2009

ITEM D-14  
EXHIBIT "1"

UPSET PRICE:

One-time lump sum payment of fair market value to be determined by an independent appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner and will become privately owned land at that point.

DCCA VERIFICATION:

Applicant as a landowner, is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 2) Pay for an appraisal to determine the upset price for the remnant and
- 3) Consolidate the remnant with the Applicant's abutting property through the County subdivision process.

REMARKS:

On July 22, 2009 (Item D-13), the Board approved the sale of the subject remnant by sealed bid process. A copy of the approved submittal is attached as "Exhibit B". The applicants currently are: Guillermo Geldermann, Kualoa Ranch, Inc. and the Kaaawa Beach Owners Association (KBOA). Staff has previously requested payment of the appraisal fee from each of the three applicants. Geldermann indicates that he is still interested in the sale of the remnant but has some concerns about the amount of the appraisal fee. KBOA never responded while Kualoa Ranch, Inc. subsequently indicated that they were no longer interested in pursuing the subject sealed bid process. In view of the latest position of the applicants, staff recommends that the Board approve the sale of the subject remnant to the remaining applicant, Guillermo Geldermann.

Since the entire review process for the subject remnant had already been completed in the July 2009 Board meeting, staff has not solicited comments from other agencies pertaining to today's request.

Staff has no objections to this request and there are no other pertinent issues or concerns.

RECOMMENDATION:


That the Board:

1. Rescind the prior Board action of July 22, 2009, Item D-13.
2. Find that the subject lands are economically or physically unsuitable or undesirable for

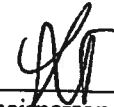

development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

3. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 5-1-11: 012, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
4. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HIR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
5. Authorize the consolidation of the subject remnant by the applicant.
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to the applicant covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

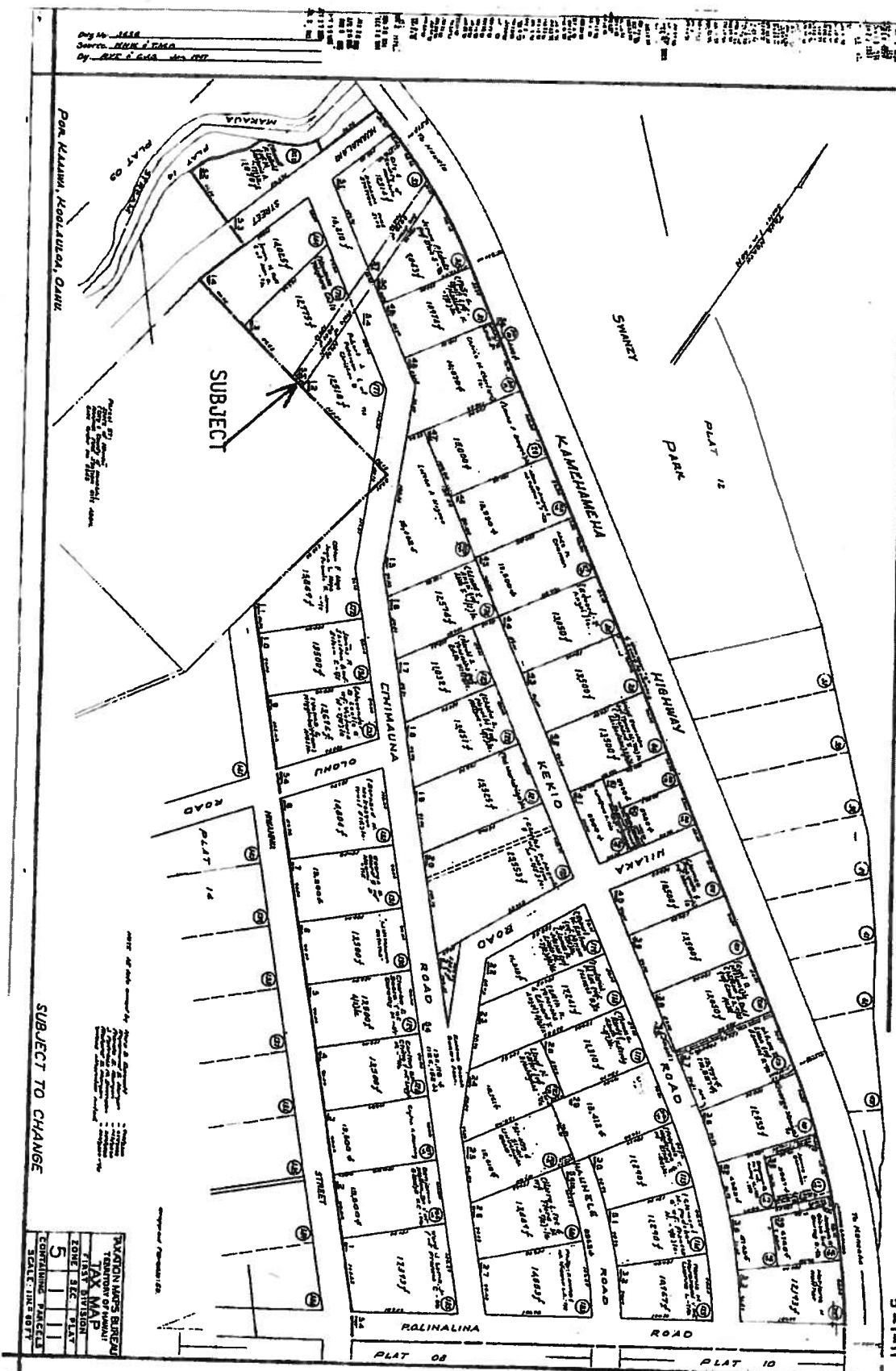
Respectfully Submitted,

  
\_\_\_\_\_  
Timmy Chee  
Land Agent

APPROVED FOR SUBMITTAL:

   
\_\_\_\_\_  
Laura H. Thielen, Chairperson

TAXATION MAPS BUREAU				
TERRITORY OF HAWAII				
TAX MAP				
FIRST DIVISION				
ZONE	SEC.	PLAT		
5	1	1	1	1
CONTAINING PARCELS				
SCALE: 1"= 80 FT				



**EXHIBIT** **4** **A**

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 22, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 09OD-054

OAHU

Authorize Sale of Remnant by Sealed Bid; Kaaawa, Koolauloa, Oahu;  
Tax Map Key: (1) 5-1-11:055

APPLICANT:

1. Guillermo Geldermann, whose mailing address is \_\_\_\_\_, Kaaawa, Hawaii  
96730; and
2. Kaaawa Beach Owners Association, whose mailing address is \_\_\_\_\_, Kaaawa,  
Hawaii 96730; and
3. Kualoa Ranch, Inc., whose mailing address is \_\_\_\_\_, Kaaawa, Hawaii 96730

The Applicant, as mentioned herein, is the one submitting the sealed bid containing the highest offer above the appraised value.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaaawa, Koolauloa, Oahu; identified by  
Tax Map Key: (1) 5-1-11:055; as shown on the attached map labeled "Exhibit A".

AREA:

3,661 square feet, more or less.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

*July 22, 2009*

D-13

EXHIBIT "B"

ZONING:

State Land Use District: Urban District  
City and County of Honolulu LUO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

UPSET PRICE:

One-time lump sum payment of fair market value to be determined by an independent appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

DCCA VERIFICATION:

Applicant Guillermo Geldermann, as a landowner, is not required to register with DCCA.

Applicant Kaaawa Beach Owners Association:

Place of business registration confirmed:	YES <u>x</u>	NO ___
Registered business name confirmed:	YES <u>x</u>	NO ___
Applicant in good standing confirmed:	YES <u>x</u>	NO ___

Applicant Kualoa Ranch, Inc.:

Place of business registration confirmed:	YES <u>x</u>	NO ___
Registered business name confirmed:	YES <u>x</u>	NO ___
Applicant in good standing confirmed:	YES <u>x</u>	NO ___



APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the upset price for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." Staff believes the subject parcel qualifies as a remnant for the following reasons:

The subject parcel consists of a sloped, substandard sized lot; shown on Exhibit A. Staff understands that due to the size of the subject parcel, it is physically unsuitable for development as a separate unit to be in compliance with the local county zoning requirements which require a minimum lot size of 5,000 square feet. Therefore, staff recommends the Board declare the subject parcel as a remnant.

Staff has inquired with the abutting property owners to query their interest in purchasing the subject lot remnant. The three properties abutting the subject lot remnant are identified by the following tax map key number: (1) 5-1-11: parcels 012, 013 and 054, whose ownership has been confirmed by a review of the local county real property tax website. Mr. Guillermo Geldermann, owner of parcel 12, and the Kaaawa Beach Owners Association, owner of parcel 54, indicated their interests to the proposed sale in writing, as requested. Kualoa Ranch, Inc., owner of parcel 13, expressed a verbal interest to the proposed sale for the remnant parcel.

Further, pursuant to Section 171-52, HRS, Remnant: "If there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting a sealed bid containing the highest offer above the appraised value. If the remnant abuts more than one parcel, the board may subdivide the remnant so that a portion thereof may be sold to each abutting owner at the appraised value; provided that no remnant shall be sold to any abutting owner unless the remnant when combined or consolidated with the abutting property, shall constitute a lot acceptable to the appropriate agency of the county in which the remnant lies; and provided further that appropriate language shall be included in any document of conveyance of such remnant to assure use of the remnant in accordance with the applicable ordinances, rules, and regulations of the county concerned." However, staff believes that the net effect of a subdivision of the subject remnant parcel among the three applicants would produce a less desirable property,

further compromising its configuration, size and utility. Thus, in accordance with Section 171-52, HRS, staff suggests a disposition of the subject remnant parcel to be made by a sealed bid process, and awarded to the highest bidder. Further, the applicant's use of the subject remnant parcel must be in compliance with all county regulations, and specified within the language of the conveyance document.

In the past, establishing the upset price for the sealed bid process has been determined by the services of an independent real estate appraiser. Payments to the designated real estate appraiser should be first collected by the State from all three applicants prior to the appraiser receiving the work order to proceed, with a full refund following to the unsuccessful applicants.

All three applicants have not had a lease, permit, easement or other dispositions of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Department of Planning and Permitting recommends that the City's subdivision and consolidation procedures be followed, where applicable, concerning the subject remnant's disposition.

The Department of Facilities Maintenance have indicated that a portion of the subject parcel is located within the right-of-way of the adjacent Lihimauna Road, and that the roadway is privately owned. They cited the City's Private Street Ordinance that allows for maintenance of the roadway's travel way.

The Board of Water Supply and the State Historic Preservation Division have no objections to the subject request.

The Department of Hawaiian Home Lands had no comment to the subject request.

The Department of Health, Commission on Water Resource Management, Office of Hawaiian Affairs and the Applicants have not responded as of the suspense date of the subject request.

**RECOMMENDATION:**

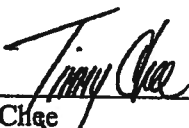
That the Board:

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

July 22, 2009

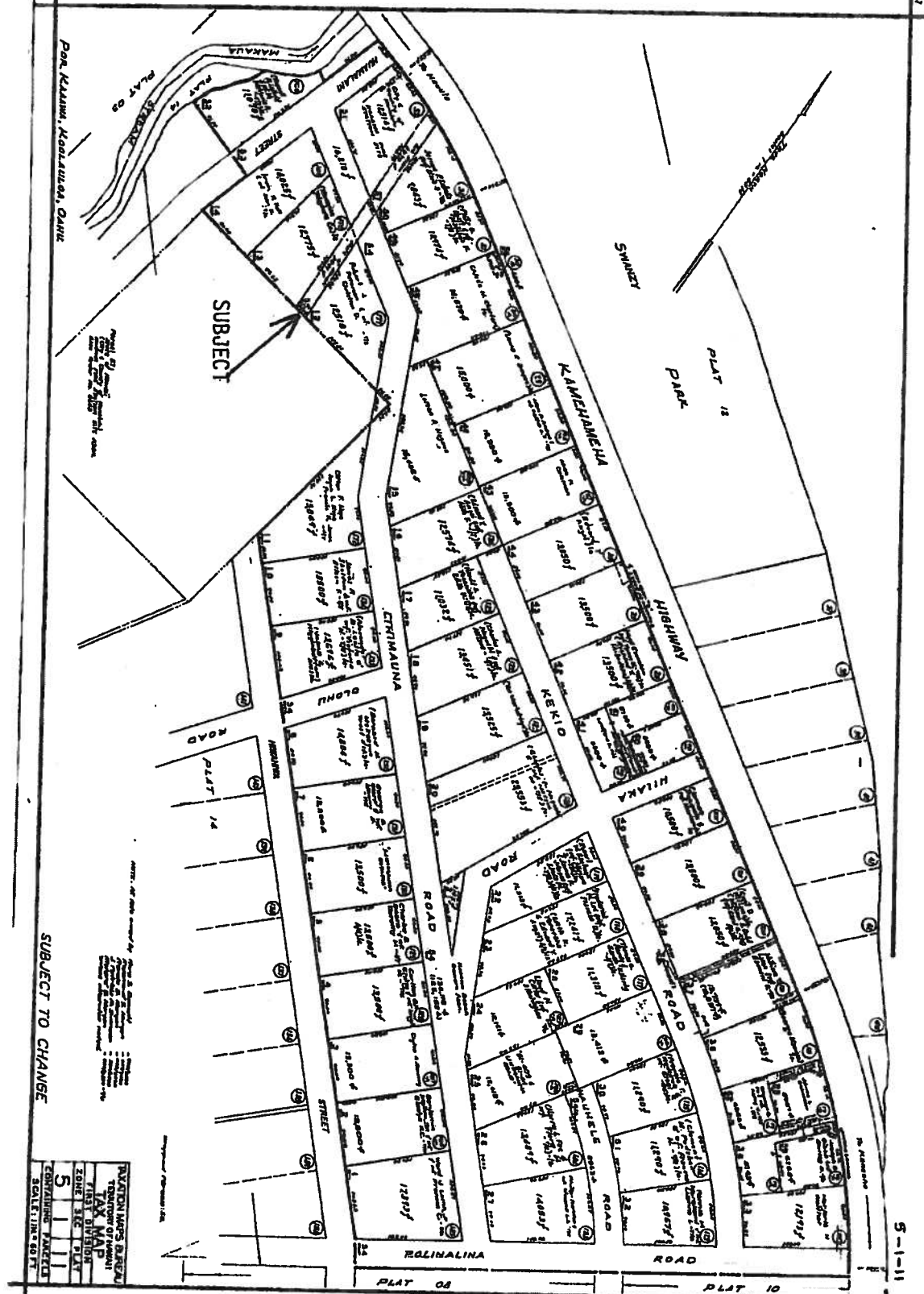
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 5-1-11: parcels 012, 013 or 054, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the consolidation of the subject remnant by the Applicant.
5. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to the successful bidder as mentioned above covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
\_\_\_\_\_  
Timmy Chee  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson

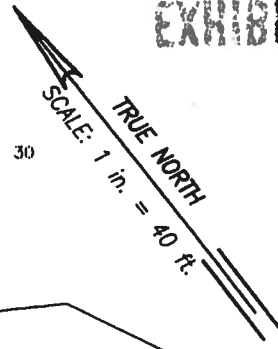


**SUBJECT TO CHANGE**

TAXATION MAPS BUREAU  
TERRITORY OF HAWAII  
TAX MAP  
FIRST DIVISION  
ZONE SEC PLAT  
5 1 1 1 1  
CONTAINING PARCELS  
SCALE: 1 IN. = 60 FT.

**EXHIBIT 44 A**

EXHIBIT



Part of former 30-Box Right-of-Way dated June 29, 1927 and restored to the Hawaii by Presidential Executive Order (C.S.F. 14,719)

KAAWA FIRE STATION SITE

LIHIMAUNA ROAD

2692 SQ. FT.

BEACH

WINDWARD RETREAT CENTER  
General Lease No. S-5851  
(C.S.F. 24,149)

Former Tract No. 1  
Kaaawa Military Reservation  
restored to the possession,  
use and control of the  
Territory of Hawaii by  
Presidential Executive Order  
10,496, Parcel 2, dated  
October 14, 1953

Deed: Walter Francis Dillingham and wife to the United States of America dated  
January 14, 1925 and recorded in Liber 758, Pages 469-474, set aside for  
military purposes by Presidential Executive Order 4679 dated June 29, 1927

Road setback line  
HUAMALANI STREET

# GOVERNMENT REMNANT

Kaaawa, Koolauloa, Oahu, Hawaii

EXHIBIT "2"

Scale: 1 inch = 40 feet

Job 0-351(09)

C. BK.

TAX MAP 5-1-11 : Par. 55

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

C.S.F. NO. 24,907

STATE OF HAWAII

GZY January 11, 2010



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 23, 2010

Ref: 09od-054

Mr. Guillermo Geldermann

Kaaawa, Hawaii 96730

Dear Mr. Geldermann:

Subject: Sale of Remnant; Kaaawa, Koolauloa, Oahu; TMK (1) 5-1-011:portion of 055

We write to respond your recent verbal inquiry regarding the area of the subject remnant.

At its meeting on December 11, 2009, under agenda item D-14, the Board authorized the sale of 3,661 square feet, more or less as remnant to you. Staff was not aware that a portion of the said area, in fact, is being used as the right-of-way within Lihimauna Road, owned by the Kaaawa Beach Owners Association (Association). When the Department of Accounting and General Services, Survey Division finalized the remnant area, it has been determined as 2,692 square feet. A copy of survey map (CSF 24907) is attached for your reference.

We note that Lihimauna Road is one of the private roads serving the subdivision. Therefore, we do not intend to convey the fee title of the portion of State land over Lihimauna Road. We confirm that our offer letter dated October 14, 2010 pertains to 2,692 square feet. We apologize for any inconvenience caused by our overlook.

If we do not hear from you within four weeks from the date of this letter, we will assume that you are no longer interested and will close our file on this request.

By separate letter, we are writing to the Association regarding portions of State land adjacent to the private roads in the area.

Please feel free to contact us at 587-0430 if you want to discuss the case further. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Cheung".

Barry Cheung  
District Land Agent

A small, handwritten mark or signature, possibly a stylized "u" or "w".

**EXHIBIT "3."**

February 23, 2011

State of Hawaii

Department of Land and Natural Resources

P O Box 621

Honolulu, Hawaii 96809

William J. Aila, JR.

Chairperson

Ref. No.: 09OD-054

RECEIVED  
LAND DIVISION  
2011 FEB 25 P 2:51  
OFFICE OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Dear Mr. Aila

Please forgive this intrusion on your valuable and I'm sure limited time, I'm having a bit of a problem with the purchase of a remnant offered to me by BLNR.

I was offered a parcel consisting of 3661 Sq. Ft. and asked to pay \$1700 for its appraisal.

After doing so with great concern as it was four times what a normal appraisal costs I was denied a copy of the appraisal and also told that I was now only being sold 2692 Sq. Ft. approximately 25% less than previously offered.

Due to the very large discrepancy between what was originally offered and what now I'm told by Mr. Cheung would be sold to me, I'm requesting a refund of the appraisal fee as it is not for what I was told I was buying...

Perhaps it was an honest mistake, perhaps not, I believe an investigation as to when the decision to sell the lesser amount was made and who was involved in the decision making process is in order.

The 900 Sq. Ft. more or less that was originally offered to me is now being offered to KBOA a private corporation.

Sincerely



EXHIBIT "4"

Guillermo Geldermann

Kaaawa, Hawaii 96730